

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**CHRISTOPHER SCOTT SMITH
and VERSATILE INSURANCE
PLANNERS, LLC,
Plaintiffs,**

vs.

**CERTAIN UNDERWRITERS AT
LLOYD’S LONDON,
Defendant.**

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CIVIL ACTION NO. 5:17-cv-00005

CERTAIN UNDERWRITERS AT LLOYD’S LONDON’S NOTICE OF REMOVAL

COMES NOW Defendant Certain Underwriters at Lloyd’s London, and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and without waiving any of its defenses, hereby gives notice of removal of this case from the 224th Judicial District Court, Bexar County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division, and shows the Court as follows:

**I.
INTRODUCTION**

1. Plaintiffs Christopher Scott Smith and Versatile Insurance Planners, LLC (“Plaintiffs”) filed a declaratory judgment action against Defendant Certain Underwriters at Lloyd’s London (“Underwriters”) on November 23, 2016 in the 224th Judicial District Court, Bexar County, Texas. Plaintiffs seek a declaratory judgment against Underwriters based on certain rights and/or obligations under insurance policy number PGIARK02257-00, issued by Defendant to Versatile Insurance Planners, providing insurance agents and brokers errors and omissions coverage. Plaintiffs requested defense and indemnity under the policy in question for claims against them in a suit brought by Joshua Flores and Loan Star Tunneling & Excavation,

LLC, which was denied.¹ Plaintiffs also bring causes of action against Defendant for breach of contract and insurance code violations on the same basis.²

II. TIMING OF REMOVAL

2. Underwriters were served with Plaintiffs' Original Petition via the Texas Department of Insurance on December 7, 2016.³ This Notice of Removal is timely filed within thirty (30) days of service, pursuant to 28 U.S.C. § 1446(b)(1).

III. VENUE

3. This Court occupies the district and division in which Plaintiffs' lawsuit was filed. Therefore, venue is proper pursuant to 28 U.S.C. § 1446(a).

IV. BASIS FOR REMOVAL

4. There is complete diversity between the parties. 28 U.S.C. § 1332(a).

5. Plaintiff Christopher Scott Smith alleges to be an individual residing in Bexar County, Texas.⁴

6. Plaintiff Versatile Insurance Planner, LLC alleges to be a Texas limited liability company.⁵

7. Defendant Certain Underwriters at Lloyd's London subscribing to Policy Number PGIARK02257-00 made the basis of this lawsuit was and is a foreign corporation, duly

¹ See Plaintiffs' Original Petition at ¶7, attached as **Exhibit B**.

² See **Exhibit B**, ¶23-26.

³ See Plaintiffs' Original Petition, attached as **Exhibit B** (including letter from the Texas Department of Insurance to Underwriters dated December 9, 2016).

⁴ See **Exhibit B** at ¶3.

⁵ See **Exhibit B** at ¶4.

organized and existing under and by virtue of the laws of England and Wales and at all times material hereto was duly authorized to issue insurance policies in the State of Texas.

8. Plaintiffs allege that the amount in controversy exceeds \$75,000.00, excluding interest and costs.⁶

9. Because there are no other defendants in this case, no consent is required to remove this case to federal court.

V.
JURY DEMAND

10. No jury demand has been filed in the state court action.

VI.
DOCUMENTS FILED WITH THIS NOTICE AND IN SUPPORT OF REMOVAL

11. Underwriters hereby file the following documents with the Court:

Exhibit A Civil Cover Sheet;

Exhibit B Plaintiffs' Original Petition, including Citation and Proof of Service;

Exhibit C Index of all documents served on the Defendant;

Exhibit D List of Parties and Counsel; and

Exhibit E Notice to State Court of Removal to Federal Court.

12. Promptly after filing this Notice of Removal, Underwriters will file a Notice of Removal to Federal Court with the 224th District Court of Bexar County, Texas, as required by 28 U.S.C. § 1446(d).

⁶ See **Exhibit B** at ¶2 (Plaintiffs allege that the monetary relief sought is over \$100,000 but not more than \$200,000).

VII.
CONCLUSION

BASED ON THE FOREGOING, Defendant Certain Underwriters at Lloyd's London removes this case from the 224th Judicial District Court of Bexar County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

HOLMAN FENWICK WILLAN

/s/ Jacob C. Esparza

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**ATTORNEYS FOR DEFENDANT
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LONDON**

CERTIFICATE OF SERVICE

A true and correct copy of *Defendant Certain Underwriters at Lloyd's, London's Notice of Removal* was served via the Court's EC/MCF electronic filing services, certified mail, return, receipt requested, facsimile and/or electronic mail on the following counsel on this 5th day of January 2017:

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/s/Jacob C. Esparza

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